

REMARKS/ARGUMENTS

Reconsideration of the rejections set forth in the Final Office Action dated July 12, 2004 is respectfully requested. The Applicant sincerely thanks the Examiner for his gracious telephonic discussions with the undersigned which took place on August 16, 2004. The Applicant notes that during these discussions, it was established that the Examiner intended for the Final Office Action dated July 12, 2004 to indeed be a Final Office Action, despite the fact that there is no statement in the detailed action to that effect.

The Applicant notes that in the Amendment filed on May 17, 2004, the only amendments made to the claims were made to dependent claims. None of the independent claims were amended. Since the Applicant also did not submit an Information Disclosure Statement with a fee after the Amendment filed on May 17, 2004, it is respectfully submitted that the finality of the current Final Office Action may not be proper. According to MPEP 706.07(a), "... second or any subsequent actions on the merits shall be final, *except* where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth...." (emphasis added).

The Examiner has stated on page 7 of the Final Office Action dated July 12, 2004 that claims 15-24, 29-34, 37, and 38 are rejected under a new ground of rejection. Since the Examiner has introduced a new ground of rejection (by his own admission), and the Applicant did not amend any of the independent claims in question and also did not file an information disclosure statement after the Amendment was filed on May 17, 2004, the Applicant believes that the finality of the Final Office Action dated July 12, 2004 may be improper, and respectfully requests that the finality be withdrawn.

Claims 1-10, 13-26, and 29-38 are currently pending. Claims 1-11, 14, 25, 26, 35, and 36 have been allowed. Claims 15-24, 29-34, 37, and 38 have been rejected.

Rejections under 35 U.S.C. § 103

Claims 15-18, 20, 21, and 29-32 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Rune (U.S. Patent No. 6,212,390) in view of Chang et al. (U.S. Patent No. 6,487,406). Claims 23, 24, 33, 34, 37, and 38 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Rune (U.S. Patent No. 6,212,390) in view of Chang et al. (U.S. Patent No. 6,487,406) further in view of Beamish et al. (U.S. Patent No. 6,694,143). Claims 19 and 22 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Rune (U.S. Patent No. 6,212,390) in view of Chang et al. (U.S. Patent No. 6,487,406) further in view of Hsu et al. (U.S. Patent No. 6,587,684).

1. Independent claims 15, 29, 30, and their respective dependents

Independent claim 15 requires that a method of operating a quiet zone controller includes detecting a cellular phone device entering an area, and sending an IP message including an identifier associated with the cellular phone device to a service provider control point through a radio access network. It is respectfully submitted that no combination of the art of record teaches of sending an IP message to a service provider control point through a radio access network. In the Final Office Action dated July 12, 2004, the Examiner has acknowledged that Rune does not disclose sending an IP message to a service provider control point through a radio access network. However, the Examiner has argued that Chang et al. teaches such a limitation.

Chang et al. specifically teaches that IP messages are transported using UDP/IP (Chang et al., column 8, lines 1-5). Transporting IP messages using UDP/IP does not suggest relaying an IP message through a radio access network. Instead, transporting IP messages using UDP/IP specifically teaches of using UDP/IP to send IP messages. There is no suggestion in Chang et al. of sending any IP messages through a radio access network or even a radio link protocol or, further, of using anything besides UDP/IP to send IP messages.

None of the art of record, either alone or in combination teaches of sending any IP message through a radio access network. As such, claim 15 and its dependents are each believed to be allowable over the cited art for at least this reason.

Claims 29 and 30 recite similar limitations are recited in independent claim 15. Hence, claims 29 and 30, in addition to claim 30 which depends directly from claim 29, are each believed to be allowable over the cited art for at least the reasons set forth above with respect to claim 15.

2. Independent claims 21, 32, and their respective dependents

Claim 21 recites that a cellular phone device is capable of varying its behavior in response to a configurable hushing message that comprises IP packets. A configurable hushing message allows a cellular phone device to respond in different ways, as appropriate, instead of just turning off the cellular phone device. For example, when it is important to prevent RF interference to sensitive devices, a configurable hushing command may turn off the cellular phone device (Specification, page 15, lines 12-15). Alternatively, when it is important for audible disturbances to be prevented, but not important to prevent RF interference, a configurable hushing command may be used to have the phone vibrate rather than ring (Specification, from page 14 at line 20 to page 15 at line 12).

It is respectfully submitted that neither Rune nor Chang et al., either alone or in combination, teach of a configurable hushing message that comprises IP packets. The Applicant is unable to identify, within the rejections set forth on pages 2 and 3 of the Final Office Action dated July 12, 2004, any mention of a configurable hushing message that comprises IP packets. While there is mention of a message and of an IP message, there is no discussion of how the Examiner believes a "message" somehow suggests a configurable hushing message that comprises IP packets. It is noted that the Applicant does not believe that a combination of Rune and Chang et al. even reasonably suggests a configurable hushing message that comprises IP packets. Accordingly, the Applicant believes that claim 21 is believed to be allowable over the cited of record for at least this reason.

Claims 22-24 and 37 each depend directly from independent claim 21, and are each therefore believed to be allowable over the art of record for at least the reasons set forth above with respect to claim 21. Each of these dependent claims recites additional limitations which, when considered in light of claim 21, are each believed to further distinguish the claimed invention over the art of record. By way of example, claim 37 requires that a cellular phone device includes a transmitter, and that the configurable hushing messages causes the cellular phone device turn off only the transmitter. Turning off **only** the transmitter allows the cellular phone device to function at some level while preventing RF interference to sensitive devices. Beamish et al. teaches of turning off a cell phone (Beamish et al., column 2 at lines 22-25), but does not teach of or reasonably suggest that **only** the transmitter in a cell phone is turned off. Since neither Rune nor Chang et al. teach of turning off only the transmitter in a cellular phone device, neither Rune nor Chang et al. overcome this deficiency of Beamish et al. Therefore, claim 37 is believed to be allowable over the art of record for at least this additional reason.

Independent claim 32 recites limitations similar to those recited in claim 21. As such, claim 32 and its dependents are each believed to be allowable over the art of record for at least the reasons set forth above with respect to claim 21.

Conclusion

For at least the foregoing reasons, Applicant believes all the pending claims are in condition for allowance and should be passed to issue. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at (408) 446-8696.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peggy A. Su". The signature is fluid and cursive, with the first name "Peggy" being more prominent than the last name "Su".

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